HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.679 of 2006

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Between:

Smt.N.Sakuntala Syama Kumar

……Appellant

And

The District Collector,
Visakhapatnam, Visakhapatnam District
and 13 others

……Respondents

:: JUDGMENT ::

Counsel for the Appellants : Shri D.Prakash Reddy, Senior Advocate assisted by Shri G.Rama Gopal

Counsel for Respondent Nos.1 and 2 : Government Pleader for Assignments

Counsel for Respondent Nos.3 to 14 : Shri D.V.Sitharam Muthry

November 02, 2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 16-03-2006 passed by the learned Single Judge in Writ Petition No.9690 of 2005, which was disposed of along with Writ Petition No.9927 of 2002.

We have heard Shri D.Prakash Reddy, Senior Advocate appearing for the appellant and the learned Government Pleader for Assignments and perused the record. By a separate order passed today, we have disposed of Writ Appeal No.524 of 2006 filed by the petitioners of Writ Petition No.9927 of 2002 by observing that the appropriate remedy available to the appellants is to apply for review of the order of the learned Single Judge.

Shri D.Prakash Reddy, learned counsel for the appellants lamented that while deciding both the writ petitions by a common order, the learned Single Judge did not advert to the factual matrix of the case set up by his client and did not consider the core issues raised by her. He contended that the respondents had not filed counter to the writ petition and, therefore, the averments contained therein remained uncontroverted and the learned Single Judge should have nullified proceedings dated 28-04-1990 and consential patta issued in favour of late Shri Gokaraju Suryanarayana Raju in Rc.No.246/90 dated 10-08-1990.

Learned Government Pleader fairly conceded that counter affidavit had not been filed on behalf of the official respondents in Writ Petition No.9690 of 2005.

We have considered the respective submissions and are of the view that the order under challenge is liable to be set aside insofar as it relates to disposal of Writ Petition No.9690 of 2005, because the

learned Single Judge did not advert to any of the points raised in the writ petition filed by the appellant for questioning the legality of proceedings dated 28-04-1990.

We would have ourselves adjudicated the writ petition on merits, but keeping in view the fact that the respondents did not file counter affidavit, we deem it proper to refrain from adopting that course.

In the result, the appeal is allowed. Order dated 16-03-2006 passed by the learned Single Judge is set aside insofar as it relates to Writ Petition No.9690 of 2005. The writ petition shall now be listed before the learned Single Judge for fresh disposal in accordance with law.

With a view to obviate delay in the disposal of the writ petition, we direct the respondents to file counter within a period of six weeks. Rejoinder affidavit, if any, be filed within next three weeks. The writ petition be listed before the appropriate Bench on 27-12-2006.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

02-11-2006
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